

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**JOSHUA LEE JACKSON,**

**Defendant.**

**CR 23-135-BLG-SPW**

**ORDER**

The Defendant has filed a Motion to Dismiss Indictment (Doc. 49) based on the Ninth Circuit's recent decision in *United States v. Duarte*, 101 F.4<sup>th</sup> 657, 2024 WL 2068016. For good cause,

**IT IS HEREBY ORDERED** that:

(1) Defendant's Motion (Doc. 49) will be held in abeyance until there is a Mandate by the Ninth Circuit in *United States v. Duarte*, 101 F.4<sup>th</sup> 657 (9<sup>th</sup> Cir. 2024).

(2) The Court further finds that this period of time is excludable in computing the time within which the trial must commence, pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(i), and (B)(ii).

(3) The Defendant's Motion also provides good cause for a finding of


excludable time pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h)(1)(D).

(4) Once there is a Mandate in *Duarte*, the Court will set a hearing at which time it will consider Defendant's Motion. Until then, Defendant's Motion is not "under advisement" within the meaning of 18 U.S.C. § 3161(h)(1)(H) because a Mandate by the Ninth Circuit is necessary to the Court's disposition of the Motion.

(5) Nothing in this Order shall preclude a finding that other provisions of the Speedy Trial Act dictate that additional time periods be excluded from the period within which trial must commence. Moreover, the same provisions and/or other provisions of the Speedy Trial Act may in the future authorize the exclusion of additional time periods from the period within which trial must commence.

IT IS SO ORDERED.

DATED this 18<sup>th</sup> day of June, 2024.

  
SUSAN P. WATTERS  
United States District Judge